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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/563,546	01/04/2006	Terry Glyn Moule	GJ-273J	1009
7590 Iandiorio & Teska 260 Bear Hill Road Waltham, MA 02451			EXAMINER WHITE, RODNEY BARNETT	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 11/01/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/563,546

Applicant(s)

MOULE, TERRY GLYN

Examiner

Rodney B. White

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,6-21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6-17, 19-21, and 23 is/are rejected.
- 7) ☒ Claim(s) 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments filed 08/27/2007 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6-9, 11-17, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Jay (U.S. Patent No. 5,018,790).

Jay teaches a seat portion for a seat, which seat portion comprises at least a first part which is made of a first plastics foam material of a first hardness, and a second part which is made of a second plastics foam material of a second and lesser hardness, and in which the first and second parts are the only parts in the seat portion which provide a posterior-supporting function, the second part is in the form of an insert which fits into a complementarily shaped recess in the first part and does not extend into a backrest portion of the seat; the insert substantially fills the recess; and the insert comprises a

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pair of pads 29,34 which are positioned so as to be underneath the cheeks of the posterior of a person sitting on the seat portion and a pair of legs 23,23 which are positioned so as to be underneath the thighs of the person sitting on the insert, in which the pads and the legs have curved faces which engage complementarily curved faces in the recess, in which the second part does not have any voids of the type used to increase flexibility and/or save plastics foam material, in which the second part is in the form a surface-mounted addition which rests on an upper surface of the first part, in which the second part is fixed to the first part, in which the second part is moveable with respect to the first part, seat when including a seat portion and including a backrest portion and including a headrest portion (See column 5, lines 64-66), in which the backrest portion comprises a main part which is made of a plastics foam material of a first density, and a support part which is made of a plastics foam material of a second and different density, in which the support part is fixed to the main part, in which the support part is moveable with respect to the main part, in which the main part is such that it increases in thickness in a direction towards the seat portion, in which the support part is a rectilinear support part, in which an under surface of the second part has protuberances, and the upper surface of the first part has recesses complementary in shape to the protuberances planar, and co-planar with the surrounding non-recessed area of the first part.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jay (U.S. Patent No. 5,018,790) in view of Ito (U.S. Patent No. 4,865,379) and Aoki et al (U.S. Patent No. 4,813,738).

Jay teaches the structure substantially as claimed but is silent on the specifics of a heating element and a peripheral frame which extending around the periphery of the backrest portion. However, commonly owned U.S. Patents to Ito and Aoki et al teach the concept of a seat cushion including a heating element and a peripheral frame which extending around the periphery of the backrest portion (See the figures and the specification). It would have been obvious and well within the level of ordinary skill in the art to modify the seat cushion, as taught by Jay, to include a heating element, which would provide warmth and comfort to a user if needed, and a frame, which would provide a more sturdier vehicle seat.

Claim 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**Remarks**

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Applicant's main argument is that the seat portion of the Jay Patent (U.S. Patent No. 5,018,790) "must always have what might be regarded as first and second parts as shown in Figure 1 plus the fluid filled pad 42 shown in Figure 3 and forming an essential part of all of the Jay claims." However, "fluid filled pad 42" in the Jay patent is not "in the seat portion" as newly amended claim 1 recites. Furthermore, Jay discloses that "the pad 42 need not be attached to the tray 11" (see column 5, lines 55-57). With that statement and teaching, Jay also teaches that the first and second parts can be the only parts in the seat portion which provide a posterior-supporting function" as defined, since the "fluid filled pad 42" can or cannot be present and the first and second parts will still serve the same function and work just as well as the first and second parts of the present invention.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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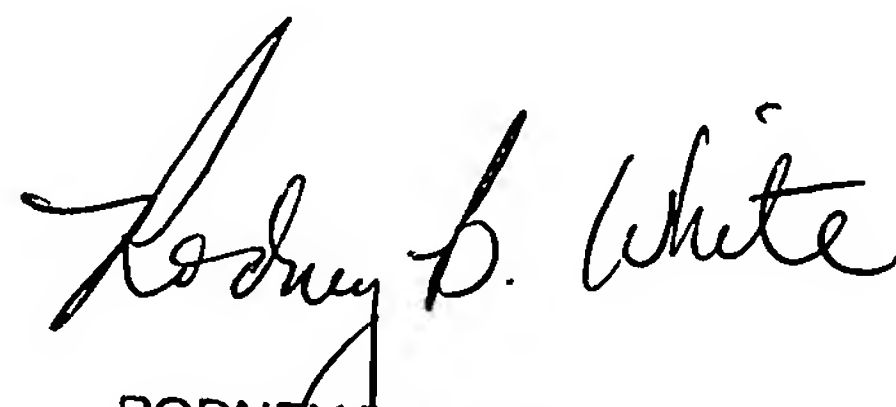
the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (571) 272-6863. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on (571) 272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rodney B. White,  
Patent Examiner  
Art Unit 3636  
October 29, 2007

  
RODNEY B. WHITE  
PRIMARY EXAMINER